



***NEW JERSEY STATE  
POLICY PROHIBITING DISCRIMINATION,  
HARASSMENT OR HOSTILE ENVIRONMENTS  
IN THE WORKPLACE***

**I. POLICY**

The State of New Jersey is committed to providing every State employee with a workplace free from unlawful discrimination. All forms of unlawful employment discrimination based upon race, creed, color, national origin, ancestry, age, sex, marital status, familial status, religion, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability are prohibited and will not be tolerated. Sexual harassment is a form of unlawful gender discrimination and, likewise, will not be tolerated.

Unlawful discrimination/harassment undermines the integrity of the employment relationship, compromises equal employment opportunity, debilitates morale and interferes with work productivity. This policy applies to all employees and applicants for employment in State departments, commissions, State colleges, and authorities. The State of New Jersey will not tolerate harassment or discrimination by anyone in the workplace including supervisors, co-workers, or non-employees. This policy applies to conduct which occurs in the workplace and also extends to conduct which occurs at any location that can be reasonably regarded as an extension of the workplace, such as any field location, any off-site business-related social function, or any facility where State business is being conducted and discussed.

This policy also applies to third party harassment. Third party harassment is unwelcome behavior of a sexual, racial or derogatory nature regarding any protected category, that is not directed at an individual but is a part of that individual's work environment. Third party harassment based upon any of the aforementioned protected categories is prohibited by this policy.

This policy pertains to all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, compensation, fringe benefits, working conditions and career development.

**II. RACIAL, GENDER, NATIONAL ORIGIN OR ANCESTRY, AGE, RELIGIOUS, DISABILITY, AFFECTIONAL OR SEXUAL ORIENTATION, MARITAL STATUS, FAMILIAL STATUS, ATYPICAL HEREDITARY CELLULAR OR BLOOD TRAIT, GENETIC INFORMATION, LIABILITY FOR SERVICE IN THE ARMED FORCES OF THE UNITED STATES DISCRIMINATION OR HARASSMENT IS PROHIBITED.**

It is a violation of this policy to engage in any employment practice or procedure which treats an employee less favorably based upon a person's race, gender, national origin or ancestry, religion, age, disability, affectional or sexual orientation, marital status, familial status, atypical hereditary cellular or blood trait, genetic information, or liability for service in the Armed Forces of the United States.

It is also a violation of this policy to use derogatory or demeaning slurs to refer to a person's race, gender, age, religion, disability, affectional or sexual orientation, or ethnic background which have the effect of harassing an employee or creating a hostile work environment. Harassment or the creation of a hostile work environment can occur even if there was no intent on the part of an individual to harass or demean another.

Examples of Behaviors That May Constitute Prohibited Workplace Discrimination or Harassment Include, But Are Not Limited To:

- Discriminating against an individual with regard to terms and conditions of employment because of that individual's race, gender, age, religion, disability, affectional or sexual orientation, place of origin, or his or her ancestor's place of origin.
- Treating an individual differently because of race, gender, age, religion, disability, affectional or sexual orientation, place of origin, or his or her ancestors' place of origin, or because an individual has the physical, cultural or linguistic characteristics of a racial or national origin group.
- Treating an individual differently because of marriage to or association with persons of a racial, religious or national origin group; or due to membership in or association with an organization identified with the interests of a racial, religious or national origin

group; or because an individual's name or spouse's name is associated with a racial, religious or national origin group.

- Calling another by an unwanted nickname which refers to one or more of the above characteristics, or telling ethnic jokes which harass an employee or create a hostile work environment.
- Using derogatory references regarding any of the above characteristics in any job-related communication.
- Engaging in threatening, intimidating, or hostile acts, in the workplace, based on the foregoing classifications.
- Displaying or distributing material in the workplace that contains language or images that are derogatory or demeaning, based upon any of the foregoing classifications.

### **III. SEXUAL HARASSMENT**

It is a violation of this policy to engage in sexual harassment of any kind. For the purposes of this policy, sexual harassment, with or without sexual conduct, is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual Harassment generally falls into two categories: quid pro quo and hostile work environment harassment:

A. Quid Pro Quo Sexual Harassment is a form of harassment that may include unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct based on the gender of the affected employee

when: (a) submission to such conduct is made either explicitly or implicitly a term or condition of employment; or (b) submission to or rejection of such conduct by an individual is used as a basis for employment decisions.

It shall be a violation of this policy for any person to use his or her authority to make any sexual advance toward an individual over whom the person is authorized to make, recommend or otherwise to influence personnel actions; to grant, recommend, or refuse to take personnel action on the basis of an employee's gender or sexual orientation or in exchange for sexual favors; or to take or fail to take a personnel action as reprisal against any employee for rejecting or reporting a sexual advance. Sexual advances or requests for sexual favors can be in the form of either expressed or implied comments, writings, or actions.

B. Hostile Work Environment Sexual Harassment is a form of harassment that may include unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Gender-based harassment may give rise to a claim of a hostile environment whether or not sexual activity or language is involved, if it has the purpose or effect of abusing, devaluing or subordinating the members of one sex and it adversely affects an individual's employment opportunities.

C. Third party sexual harassment is unwelcome behavior of a sexual nature or based on sex that is not directed at an individual but is a part of an individual's work environment.

Examples of Prohibited Behaviors That May Constitute Sexual Harassment Include, But Are Not Limited To:

- Generalized gender-based remarks and comments.
- Unwanted physical contact such as intentional touching, grabbing, pinching, brushing against another's body or impeding or blocking movement.
- Verbal or written sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mail, invitations, gestures or inappropriate comments about a person's clothing.
- Visual contact, such as leering or staring at another's body, gesturing, displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily-clad individuals.

- Explicit or implicit suggestions of sex by a supervisor or manager in return for a favorable employment action such as hiring, compensation, promotion, or retention.
- Suggesting or implying that failure to accept a request for a date or sex would result in an adverse employment consequence with respect to any employment practice such as performance evaluations or promotional opportunity.
- Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

#### **IV. EMPLOYEE RESPONSIBILITIES**

Any employee who believes that she or he has been subjected to any form of prohibited discrimination/harassment, including sexual harassment, or who witnesses others being subjected to such harassment or discrimination is encouraged to promptly report the incident(s) to either their supervisor or manager or directly to their respective department, commission, State college or authority's Equal Employment Opportunity/Affirmative Action Officer or to any other persons designated by their department head to receive workplace discrimination complaints. All employees are expected to cooperate with investigations undertaken pursuant to Paragraph VI of this policy. Failure to cooperate in an investigation may result in disciplinary action, up to and including termination.

#### **V. SUPERVISOR RESPONSIBILITIES**

Supervisors should make every effort to maintain a work environment that is free from any form of prohibited discrimination/harassment. Supervisors are expected to take all allegations of discrimination/harassment, including sexual harassment, seriously, and to immediately refer the matter to the individual(s) responsible for receiving such complaints. Those individuals should include persons referenced in their department's, commission's, State college's, or authority's procedures for reporting workplace discrimination. All complaints will be reviewed and prompt and appropriate remedial action will be taken to address any substantiated claim. All supervisors receiving complaints of unlawful discrimination/harassment must immediately advise the department, commission, State college or authority's Equal Employment Opportunity/Affirmative Action Officer of the complaint.

## **VI. COMPLAINT PROCESS**

Each department, commission, State college or authority shall have in place procedures for reporting, investigating, and where appropriate, remediating claims of discrimination/harassment. Each department, commission, State college or authority is responsible for designating an individual or individuals to receive complaints of discrimination/harassment, including sexual harassment, investigate such complaints, and recommend appropriate remediation of such complaints. In addition to the Equal Employment Opportunity/Affirmative Action Officer, each department, commission, State college or authority should have alternate persons designated to receive claims of discrimination/harassment.

All investigations of discrimination/harassment claims shall be conducted in a way that respects, to the extent possible, the privacy of all the persons involved. The investigations shall be conducted in a prompt, thorough and impartial manner. The results of the investigation shall be forwarded to the respective agency head to make a final decision as to whether a violation of the policy has been substantiated.

Where discrimination/harassment is found to have occurred, the agency shall take prompt and appropriate remedial action to stop the discrimination/harassment and deter its reoccurrence.

The remedial action taken may include counseling, training, intervention, mediation, and/or the initiation of disciplinary action up to and including termination of employment.

Each department, commission, State college or authority shall maintain a written record of the discrimination/harassment complaints received. Written records shall be maintained as confidential records to the extent practicable and appropriate.

## **VII. PROHIBITION AGAINST RETALIATION**

Retaliation against any employee who alleges that she or he was the victim of discrimination/harassment, or against any employee who provides information in the course of an investigation into claims of unlawful discrimination/harassment in the workplace is prohibited by this policy. Any employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy shall not be subjected to adverse employment consequences based upon such involvement or be the subject of retaliation.

## **VIII. FALSE ACCUSATIONS AND INFORMATION**

If any employee knowingly makes a false accusation of unlawful discrimination/harassment or knowingly provides false information in the course of an investigation of a complaint, such conduct may be grounds for discipline. Complaints made in good faith, however, even if found to be unsubstantiated, shall not be considered a false accusation.

## **IX. CONFIDENTIALITY**

All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigatory process. In the course of an investigation it may be necessary to discuss the claims with the alleged harasser and other persons who may have relevant knowledge. Therefore, it may be necessary to disclose information to persons with a legitimate need to know about the matter. All persons interviewed shall be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in disciplinary action.

## **X. DISCIPLINARY ACTION**

Any employee found to have violated this policy may be subject to appropriate disciplinary action which may include: reprimand, suspension, reassignment, or termination of employment. Referral to another appropriate authority for review for possible violation of State and Federal statutes may also be appropriate.

## **XI. TRAINING**

All State departments, commissions, State colleges, and authorities should make efforts to provide employees with information regarding the prevention of unlawful discrimination/ harassment and the complaint procedure to be followed in filing complaints when unlawful harassment/discrimination has occurred. All State departments, commissions, State colleges and authorities should make efforts to provide supervisors and managers with training that will inform them of the appropriate steps to be taken to address complaints of unlawful discrimination/harassment.

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